



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

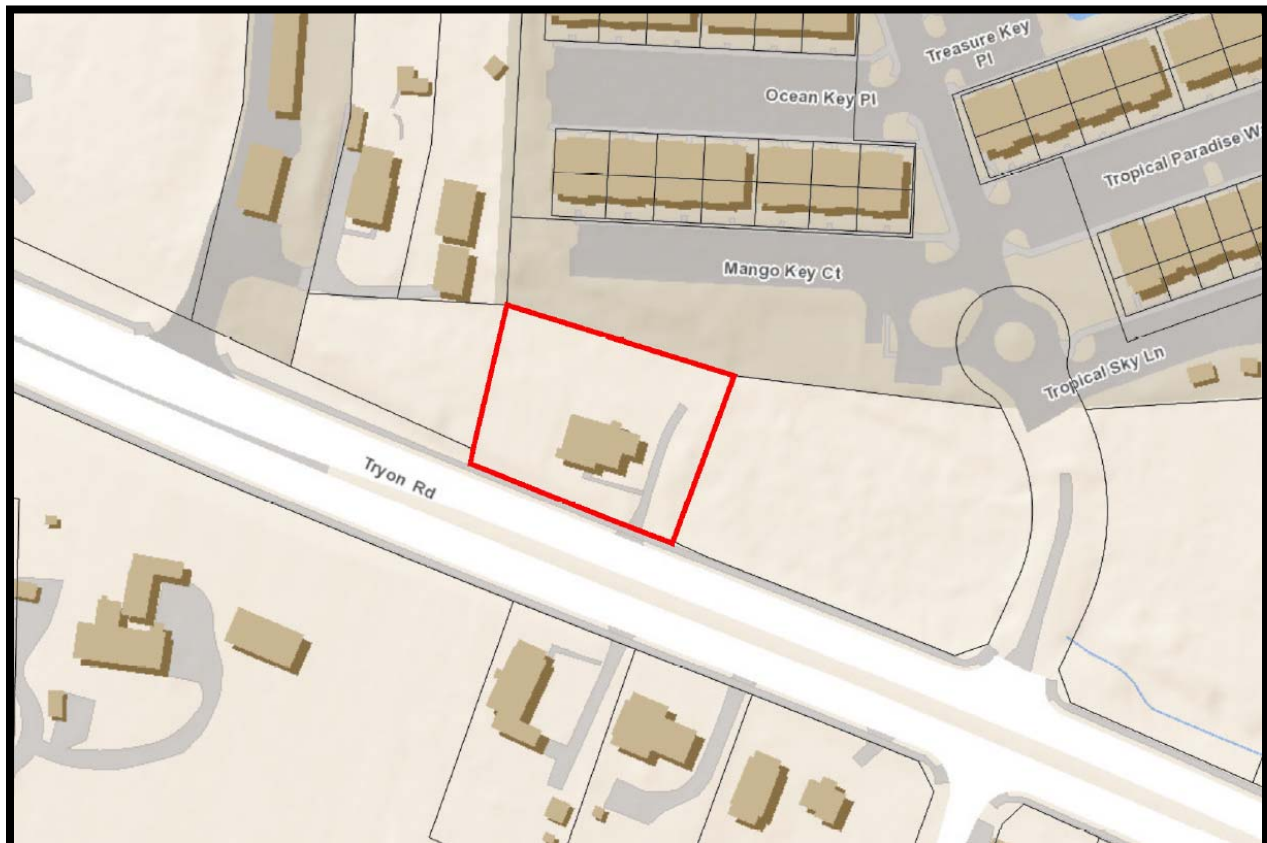
Case File: A-33-17

Property Address: 3410 Tryon Road

Property Owner: HML Management Company

Project Contact: Jamie Schwedler

Nature of Case: A request for a variance from the build-to requirements of Sections 1.5.6. and 3.2.4. of the Unified Development Ordinance in order to build an apartment building that is more than 55' from the right-of-way and does not occupy at least 35% of the side street build-to area on a 1.9 acre property zoned Residential Mixed-Use-3-Conditional Use and Swift Creek Watershed Protection Overlay District and located at 3410 Tryon Road.

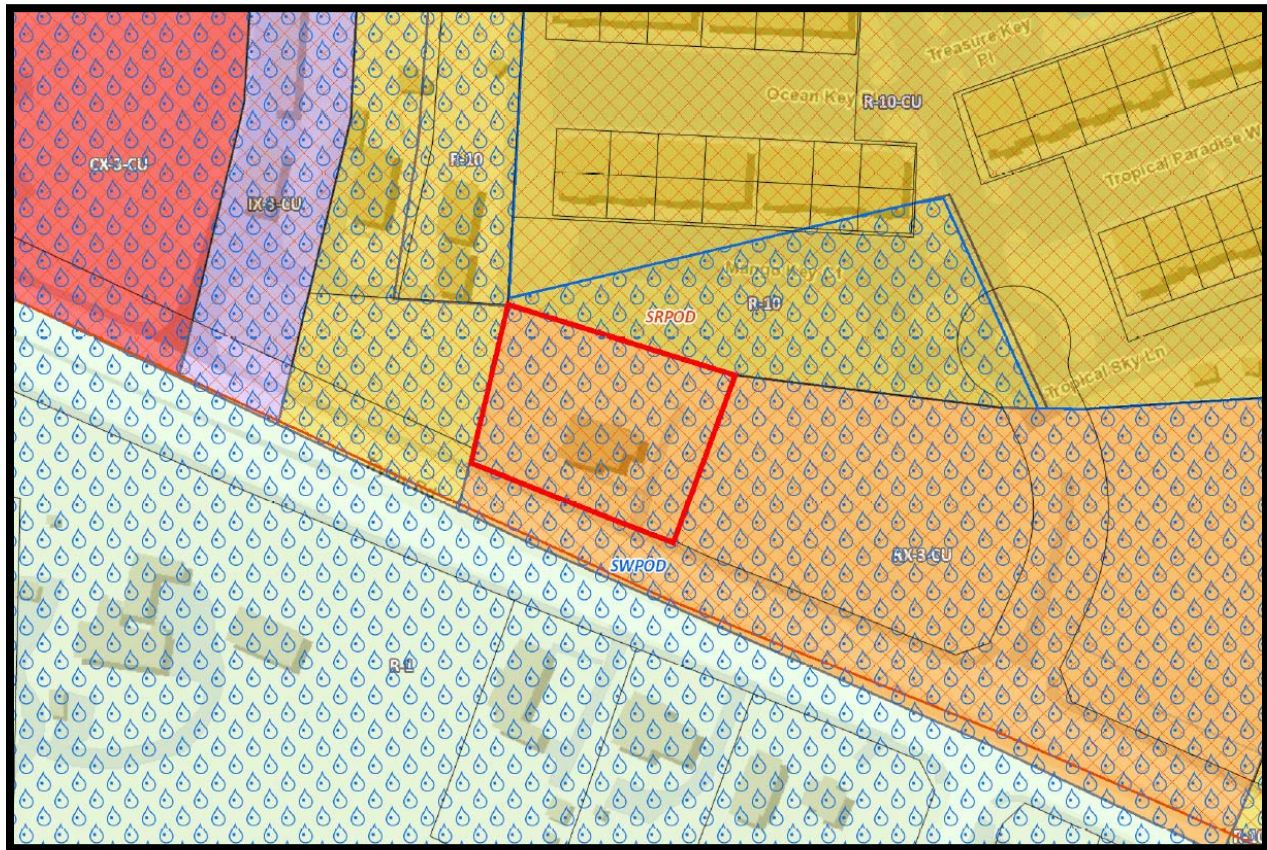


3410 Tryon Road – Location Map

To BOA: 3-13-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING DISTRICTS: Residential Mixed-use-3 Conditional Use District



3410 Tryon Road – Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that

circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Zoning District Standards: The subject property is zoned Residential Mixed-use-3 Conditional Use.

Residential Mixed Use:

<u>Yard Type</u>	<u>Minimum Setback</u>
Primary Street	5'
Side Street	5'
Side	0' or 6'
Rear	0' or 6'
Alley	4' or 20'

Sec. 3.2.4. Build-to Requirements for Apartments

Primary Street Build-to (min/max) 10'/55'

Building width in primary build-to (min) 70%

Side Street Build-to (min/max) 10'/55'

Building width in primary build-to (min) 35%

Sec. 1.5.6. Build-to

A. Defined

1. The build-to is the area on the lot where a certain percentage of the front principal building facade must be located, measured as a minimum and maximum setback range from the edge of the proposed or existing right-of-way, whichever is greater.

2. The required percentage specifies the amount of the front building facade that must be located in the build-to, measured based on the width of the building divided by the width of the site or lot.

B. Intent

1. The build-to is intended to provide a range for building placement that strengthens the street edge along the right-of-way, establishing a sense of enclosure by providing spatial definition adjacent to the street.

2. The building edge can be supplemented by architectural elements and certain tree plantings aligned in a formal rhythm. The harmonious placement of buildings to establish the street edge is a principal means by which the character of an area or district is defined.

3. The build-to range is established to accommodate some flexibility in specific site design while maintaining the established street edge.

C. General Requirements

1. On corner lots, a building facade must be placed within the build-to for the first 30 feet along the street extending from the block corner.
2. With the exception of parking areas, all structures and uses customarily allowed on the lot are permitted in the build-to area.
3. Any common area is not required to meet the build-to requirements.
4. Riparian Buffers, Floodways, areas of steep slope (defined as slopes in excess of 25%), pre-established and recorded Tree Conservation Areas and portions of property encumbered by overhead electric transmission lines rated to transmit 230 Kv, for any second driveway required by this code that must cross the build-to area, the additional width of the driveway up to a maximum of 25', and City of Raleigh utility easements shall not be considered when calculating the build-to percentage or build-to range.

D. Administrative Alternate Findings The Planning and Development Officer may in accordance with Sec. 10.2.17. reduce the build-to requirement, subject to all of the following findings:

1. The approved alternate meets the intent of the build-to regulations;
2. The approved alternate conforms with the Comprehensive Plan and adopted City plans;
3. The approved alternate does not substantially negatively alter the character-defining street wall or establish a build-to pattern that is not harmonious with the existing built context;
4. The change in percentage of building that occupies the build-to area or increased setback does not negatively impact pedestrian access, comfort or safety; and
5. Site area that would have otherwise been occupied by buildings is converted to an outdoor amenity area under Sec. 1.5.3.B.

Z-7-10 Conditional Use – Tryon Road - located on the North side of Tryon Road, East of its intersection with Trailwood Drive, being Wake County PINs 0792 06 8630, 0792 16 0547, and 0792 16 3571. Approximately 3.4 acres rezoned to Residential-15 Conditional Use with Secondary Reservoir Watershed Protection Area Overlay District. Conditions Dated: 04/28/10

Narrative of conditions being requested:

A. Residential density shall be limited to 14 dwelling units per acre or a maximum of forty-seven (47) dwelling units.

B. Direct vehicular access to Tryon Road from the Property shall be limited to a single point of access. Such access will be provided by one of the following two means:

- 1) via, Rannette Street; or
- 2) if Rannette Street is closed, via the extension of the private road, Ocean Reef Place, along the same general location as the current Rannette Streets right-of-way.

C. If requested to do so by the city, prior to lot recordation or issuance of any building permit, whichever shall first occur, the owner shall deed to the City a transit easement measuring 20' long by 15' wide adjacent to the public right-of-way to support a bus stop for future transit services in the area. The location of the transit easement shall be timely reviewed and approved by the Transit Division of the City and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

D. The site plan for the re-development of the subject property shall provide for parking as set forth in Code Section 10-2081 (as the same exist at the time of approval of this conditional use zoning district) without allowance for the code provided landscape related reduction. This condition may be accomplished by new parking spaces provided on land not included in this conditional use zoning district.

Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): Please see attached.	Transaction Number A-33-17
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.	

GENERAL INFORMATION					
Property Address	3410 Tryon Road	Date	2/9/17		
Property PIN	0792.16.3571	Current Zoning	RX-3-CU, -SWPOD		
Nearest Intersection	Tryon Road & Trailwood Drive	Property size (in acres)	1.9 acres		
Property Owner	HML MANAGEMENT COMPANY	Phone	(919)599-8063	Fax	
Owner's Mailing Address	220 Candia Ln, Cary NC 27519	Email	wychyyy@hotmail.com		
Project Contact Person	Jamie Schwedler	Phone	(919)835-4529	Fax	(919)834-4564
Contact Person's Mailing Address	301 Fayetteville St., Suite 1400, Raleigh, 27601	Email	jamieschwedler@parkerpoe.com		
Property Owner Signature		Email	wychyyy@hotmail.com		
Notary	Sworn and subscribed before me this <u>8th</u> day of <u>February</u> , 20 <u>17</u>				
		Notary Signature and Seal	 <div>ANTHONY GRAHLMANN Notary Public Wake Co., North Carolina My Commission Expires Dec. 6, 2020</div>		

Nature of Variance Request
3410 Tryon Road (PIN 0792163571)

Applicant seeks a variance from the build-to requirements of UDO § 1.5.6 and § 3.2.4. The site is to be used for apartment construction. § 3.2.4(D)(1), as amended by TC-12-16, requires the principal building façade to be placed at most 55' from the property line along the primary street. On corner lots, § 1.5.6(C)(1) requires a principal building façade to be placed within the build-to for the first 30 feet from the corner. § 3.2.4 requires that the build-to be met for at least 35% of the length of the secondary street. For purposes of the build-to, Tryon Road is the primary street and Rannette Street is the side street.

The applicant cannot meet the build-to requirements due to the topography and shape of the site, and the required placement of the stormwater pond. The stormwater pond must be placed within the build-to along Tryon Road and Rannette Street due to the topography of the site and its shape. The location of the proposed pond is a low point for the site, and is the only location in which the City's stormwater quality and quantity rules can be satisfied. There is also a stream within the build-to area along Tryon Road which makes building placement unsuitable.

The variance is supported by the following findings:

1. *Unnecessary hardship would result from the strict application of the UDO.* The buildings cannot meet the build-to requirement and still satisfy the City's stormwater rules, because the stormwater pond must be designed in the same location as the build-to.
2. *The hardship results from conditions that are peculiar to the property, such as location, size or topography.* The hardship results from the existing topography and shape of the lot. The build-to area along Tryon Road is the lowest point of the site. The topography of the site is such that there is no other location where the water quality and quantity requirements of the UDO can be handled. The unusual shape of the site is such that the buildings cannot be pulled further down toward Tryon Road without interfering with the pond design or causing grading to occur outside of property lines.
3. *The hardship did not result from actions taken by the applicant or property owner.* The applicant did not create the shape of the lot or topography issues. Despite its best efforts to place the building within the build-to area under various designs and layouts, it is still approximately 35' from the build-to maximum along Tryon Road, 57' beyond the build-to corner requirement, and 3% short of the required frontage along Rannette Street due to the placement of the pond and the requirement of drive aisles.
4. *The variance is consistent with the spirit, purpose, and intent of the UDO, such that public safety is secured and substantial justice is achieved.* The purpose and intent of the UDO is to "protect water quality" and "provide for orderly growth and development of suitable neighborhoods with adequate ... drainage and utilities and appropriate building sites." § 1.1.4(E), (O). Allowing the stormwater pond to be placed within the build-to area allows the site to provide for growth with adequate drainage facilities. The purpose of the build-to requirement is to "provide a range for building placement that strengthens the street edge," which is satisfied by placing the buildings in approximately the same distance and orientation as the existing buildings along Rannette Street. § 1.5.6(B)(1).

Adjacent Property Owners

UNIVERSITY SUITES AT NCSU
COMMUNITY ASSOCIATION INC
1700 HILLSBOROUGH ST
RALEIGH, NC 27605-1641

MORGAN, PATSY SMITH TRUSTEE SMITH FAMILY IRREV CHARITABLE UNITRUST
323 GOLF COURSE DR
RALEIGH, NC 27610-2733

WILLIAMS, EDWARD E WILLIAMS, ALYCE A
3132 TRYON RD
RALEIGH, NC 27603-2940

HRA U SUITES LLC
TIM SMITH/ROB MARSHALL
2003 WESTERN AVE STE 445
SEATTLE, WA 98121-2185

BATTLE, MILTON OWENS
1011 MAPLE AVE
APEX, NC 27502-1545

RHAMKATTE MASONIC LODGE # 827 AF&AM
820 COOPER RD
RALEIGH, NC 27610-3730

UNIVERSITY SUITES AT NCSU COMMUNITY
ASSOCIATION INC
2100 RANNETTE ST
RALEIGH, NC 27603-2900

DUKE ENERGY PROGRESS INC
TAX DEPT - DEC41B
550 S TRYON ST
CHARLOTTE, NC 28202-4200

UPCHURCH, MELVIN L. HEIRS
MARIAN P E U ROWLAND
3230 TRYON RD.
RALEIGH NC 27603-2977

HRA CENTENNIAL RIDGE LLC
10500 NE 8TH ST. STE 1400
BELLEVUE WA 98004-8632

ROGERS BETTYE FRANCES TUCKER HEIRS
PHYLLIS BURT ADMIN
3240 TRYON RD
RALEIGH NC 27603-2894

WILLIAMS, EDWARD E & ALICE A
3132 TRYON RD
RALEIGH, NC 27603-2940

BATTLE, MILTON OWENS
1011 MAPLE AVENUE
APEX, NC 27502-1545

TRYON GROVE LIMITED PARTNERSHIP
PO BOX 25168
WINSTON SALEM, NC 27114-5168

